

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(MBHB Case No. 04-946-B)

In re Application of:)	
Lee et al.)	Examiner: Ian N. Moore
)	
Serial No.:)	Art Unit: 2661
09/832,251)	
)	
Filed:)	
April 10, 2001)	
)	
For: Data Transmission Method for Hybrid ARQ)	
Type II/III Uplink for a Wide-Band Radio)	
Communication System)	

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petitioner, **UTStarcom Korea Limited (c/o UTStarcom, Inc.)**, is the owner of the entire interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154-156 and 173, as presently shortened by any terminal disclaimer, of any patent granted on pending second Application Number 09/832,249, filed April 10, 2001. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154-156 and 173 of any patent granted on the second application, as presently shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

03/16/2005 HMARZ11 00000037 09832251

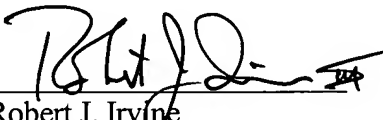
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The undersigned is an attorney of record and is empowered to execute the terminal disclaimer and to act on behalf of the organization pursuant to 37 C.F.R. § 1.321.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Robert J. Irvine

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Dated: March 7, 2005

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☒ Terminal disclaimer fee under 37 C.F.R. 1.20(d) is included.

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